

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2303

IN THE MATTER OF:

Served January 6, 1982

Application of INTERNATIONAL)	Case No. AP-80-26
LIMOUSINE SERVICE, INC., for a)	
Certificate of Public Convenience)	
and Necessity to Perform Charter)	
Operations Between Points in the)	
Metropolitan District)	

On January 4, 1982, protestant Beltway Limousine Service, Inc., filed a petition requesting issuance of a subpoena duces tecum to International Limousine Service, Inc., for production on January 7, 1982, of "[a]ll invoices, manifests, receipt journals and checking account records of International . . . for the period from January 1, 1981 through December 31, 1981."

Pursuant to Rule No. 20-04 of the Commission's Rules of Practice and Procedure, the matter was referred to the undersigned Administrative Law Judge for disposition. Following discussions among counsel for Beltway, International and the staff, it was determined that the petition would be given expedited consideration. Accordingly, a conference telephone call among all parties was arranged for January 5, 1982, at 9:45 a.m.

Messrs. Miller and Dimmick presented argument for Beltway in favor of granting the petition. Mr. Glover, counsel for International, argued against the petition, and Mr. Barth, General Counsel of the Commission, participated on behalf of the staff.

It is not necessary here to set forth in detail the various arguments presented. It suffices to say that Beltway admits that it is not sure that the bases for its petition (intimations by three charter service users that International had charged off-tariff prices) are reliable.

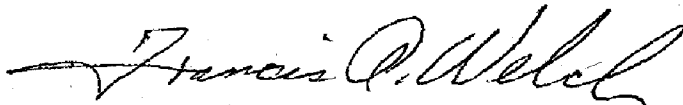
The standards for issuance of a subpoena duces tecum are set forth in Rule No. 18-01 of the Commission's Rules of Practice and Procedure. Essentially, the petition must show general relevance and reasonable scope of the evidence sought and specify with particularity the books, papers or documents desired and the facts expected to be proved thereby.

The instant petition has been filed unduly late -- only seven days before the evidentiary hearing, and no sufficient reason has been shown for this untoward delay. Beltway was served with the Commission's order dated November 16, 1981, directing the production of certain documents for inspection by the Commission's staff. Yet Beltway did not make its own request for inspection until January 4, 1982.

The scope of the sought subpoena is also excessive. During the telephone conference proceeding it was revealed that Beltway's real concern relates to allegations, which admittedly may be mere "puffery", by three charter service buyers regarding the fares of International. The most important consideration is that Beltway has not shown what facts it expects to prove with the subject documents. Even considering a more limited request to subpoena only those documents pertinent to the three specific charter service users, it cannot be said what, if anything, may be established thereby.

The petition must and should be denied.

FOR THE COMMISSION:


FRANCIS A. WELCH
Administrative Law Judge